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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**
6

7 FINJAN, INC.,

8 Plaintiff,

9 v.

10 CISCO SYSTEMS INC.,

11 Defendant.

Case No. 17-cv-00072-BLF

**ORDER MODIFYING ORDER RE
CISCO SYSTEMS, INC.'S
ADMINISTRATIVE MOTION TO
SEAL**

[Re: ECF 56, 64]

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13 Before the Court is Plaintiff Finjan, Inc.'s ("Finjan") declaration in support of a motion to
14 file under seal certain exhibits in connection with Defendant Cisco Systems, Inc.'s ("Cisco")
15 Motion to Dismiss Finjan's Second Amended Complaint for Failure to State a Claim for Willful
16 Infringement and exhibits filed in connection therewith. ECF 64. For the reasons discussed
17 below, the Court MODIFIES its prior order at ECF 61, which disposed of the original motion to
18 seal at ECF 54. *See* ECF 61.

19 **I. LEGAL STANDARD**

20 "Historically, courts have recognized a 'general right to inspect and copy public records
21 and documents, including judicial records and documents.'" *Kamakana v. City & Cnty. of*
22 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435
23 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are
24 "more than tangentially related to the merits of a case" may be sealed only upon a showing of
25 "compelling reasons" for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,
26 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed
27 upon a lesser showing of "good cause." *Id.* at 1097. In addition, sealing motions filed in this
28 district must be "narrowly tailored to seek sealing only of sealable material." Civil L.R. 79-5(b).

A party moving to seal a document in whole or in part must file a declaration establishing that the identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.” *Id.*

II. DISCUSSION

The Court has reviewed the declaration submitted by Finjan. ECF 94. The Court finds that Finjan has articulated compelling reasons to seal certain portions of the submitted documents. The proposed redactions are also narrowly tailored. The Court rules as follows on the various exhibits sought to be sealed which the Court had previously denied sealing:

<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reasoning</u>
56-4	Cisco’s Motion to Dismiss	DENIED.	Finjan, the designating party, has not provided any declaration in support of sealing. <i>See</i> Hannah Decl. ¶¶ 3-5, ECF 94.
56-6	Ex. C to Salceda Decl.	GRANTED.	Contains confidential information regarding Finjan’s intellectual property and business strategy, including terms of preferred stock purchase agreements between Finjan and Cisco. Hannah Decl. ¶ 4.
56-8	Ex. D to Salceda Decl.	GRANTED.	Contains confidential information regarding Finjan’s intellectual property and business strategy, including terms of preferred stock purchase agreements between Finjan and Cisco. Hannah Decl. ¶ 4.
56-10	Ex. E to Salceda Decl.	GRANTED.	Contains confidential information regarding Finjan’s intellectual property and business strategy, including information relating to business negotiations regarding Finjan’s products. Hannah Decl. ¶ 5.


III. ORDER

For the foregoing reasons, the Court MODIFIES its order at ECF 61. Cisco’s motion at ECF 54 is GRANTED IN PART and DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied because the party designating a document as confidential or subject to a protective order has not provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser redacted) documents into the public record no earlier than 4 days and

no later than 10 days from the filing of this order. Alternatively, this motion may be renewed so to provide sufficient reasons in the supporting declarations no later than 10 days from the filing of this order.

IT IS SO ORDERED.

Dated: August 8, 2017


BETH LABSON FREEMAN
United States District Judge